

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA,  
Plaintiff,  
v.  
KINGSLEY R. CHIN, et al.,  
Defendants.

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)  
) Criminal Action  
) No. 1:21-cr-10256-IT  
) Pages 1 to 9  
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BEFORE THE HONORABLE M. PAGE KELLEY  
UNITED STATES MAGISTRATE JUDGE

FINAL STATUS CONFERENCE  
Via Videoconference and Digital Recording

October 30, 2023

John J. Moakley United States Courthouse  
One Courthouse Way  
Boston, Massachusetts 02210

Linda Walsh, RPR, CRR  
Official Court Reporter  
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23 Proceedings recorded by sound recording and  
24 produced by computer-aided stenography.  
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1 P R O C E E D I N G S

2 THE COURT: Okay. Good afternoon, everyone.

3 MR. CALLAHAN: Good afternoon, Your Honor.

4 MR. SOLOMON: Good afternoon, Your Honor.

5 THE CLERK: Today is Monday, October 30th, 2023. We  
6 are now on the record in criminal case number 21-10256, United  
7 States versus Chin, et al., the Honorable M. Page Kelley  
8 presiding.

9 Will counsel please identify themselves for the  
10 record.

11 MR. CALLAHAN: Good afternoon, Your Honor. Patrick  
12 Callahan for the United States, and I'm here with Abe George,  
13 Chris Looney, and David Derusha.

14 THE COURT: Okay. Good afternoon.

15 MR. SOLOMON: Good afternoon, Your Honor. Joshua  
16 Solomon on behalf of Dr. Chin and SpineFrontier, and I'm here  
17 with my partner Barry Pollack. Dr. Chin is also here as well,  
18 Your Honor.

19 THE COURT: All right. Good afternoon.

20 MR. FICK: And good afternoon, Your Honor. William  
21 Fick and Daniel Marx on behalf of Aditya Humad, who is also  
22 here observing.

23 THE COURT: All right. Good afternoon. And no one  
24 else, okay.

25 So this is the final status conference, and are we

1 ready to go up to see Judge Talwani?

2 MR. CALLAHAN: I think we are, Your Honor.

3 THE COURT: Okay. And if there is a trial, how long  
4 would it take?

5 MR. CALLAHAN: Your Honor, the government put,  
6 depending on whether full days or half days, which can make a  
7 big difference, as we recently found out, the government has  
8 estimated three to five weeks.

9 THE COURT: So is that three to five weeks of full  
10 days?

11 MR. CALLAHAN: It would be -- I think when we last  
12 talked, that was assuming half days, just because that's what  
13 we had seen most frequently. We would have to go back -- if it  
14 was a full day, we would just want to see what that schedule  
15 would look like, because it does have a material effect, but we  
16 can certainly go back and do that estimate over again.

17 THE COURT: So I'm going to say three to five weeks of  
18 half days for trial.

19 And what about dispositive motions?

20 MR. FICK: So, Your Honor, we're actually working on  
21 those right now. I suspect there may be one or a handful. You  
22 know, the Intracorporate Conspiracy Doctrine is at issue here,  
23 and there's been some interesting litigation on that in recent  
24 years. The recent supreme court case about corporate mens rea  
25 I think may prompt some dispositive motion practice, so we are

1 working on those. Other discovery is largely under the bridge.  
2 But, you know, it's going to take -- I think we'd want, like,  
3 45 to 60 days to put them together to file them.

4 THE COURT: So why don't I just report in the final  
5 status report that the -- you'll set a schedule for dispositive  
6 motions at the pretrial hearing.

7 MR. FICK: That's fine, Your Honor, as long as Judge  
8 Talwani is clear that these are coming, they are not ready for  
9 trial just yet. But yes, that would be fine.

10 THE COURT: Okay. And no defenses of alibi, public  
11 authority, or insanity?

12 MR. FICK: I don't believe so.

13 THE COURT: All right. And --

14 MR. CALLAHAN: Your Honor, just briefly on that, just  
15 to make sure it's on the table. To the extent, you know, we  
16 did hear last time some argument about the presence of counsel,  
17 the presence of counsel at the time when these activities were  
18 going on, so to the extent there's an advice of counsel  
19 defense, the government is going to want to seek, you know, a  
20 deadline for the defense -- the defendants to formally notice  
21 that so we can take it from there. It's not something, I don't  
22 think, that needs to be set as a date right now, but that would  
23 be something we would want to address with Judge Talwani as  
24 soon as we get up.

25 THE COURT: All right. And I'm going to say the

1 discovery is substantially complete.

2 MR. SOLOMON: I think that's right, Your Honor. And I  
3 mean, the government would know better than us whether it tends  
4 to present anything else.

5 Following Your Honor's recent rulings, I think there's  
6 only one potentially open issue -- I don't think it prevents us  
7 from going up -- and that is the clarification that Your Honor  
8 issued in response to our motion we served to the government to  
9 ask for confirmation that it has in fact run the searches that  
10 we raised in our motion for clarification that Your Honor  
11 clarified needed to be conducted.

12 We haven't yet heard back. We wrote to them last  
13 week, but we haven't yet heard back. So there is one potential  
14 open issue there, but that's the only discovery issue that we  
15 know of.

16 THE COURT: Okay. And with regard to expert  
17 discovery, I can't remember, had we already set dates?

18 MR. CALLAHAN: Your Honor, I think in the last status  
19 conference, and I don't know that it's changed from the May  
20 2023 status conference, you know, the parties had suggested  
21 setting deadlines at a later date. That could be something  
22 that we address right from the start with Judge Talwani.

23 THE COURT: All right.

24 MR. CALLAHAN: So --

25 THE COURT: All right. I think that's a good

1 suggestion.

2 Okay. Any other things I should mention in the final  
3 report that's going to Judge Talwani?

4 MR. CALLAHAN: No, Your Honor. Other than, as  
5 Mr. Solomon mentioned, on Wednesday or Thursday of last week,  
6 they sent a letter following up on Your Honor's -- on their  
7 motion for clarification, Your Honor's clarification on their  
8 motion for clarification, and the government, you know, agrees.  
9 Our discovery obligation extends to emails, and we have  
10 produced documents with that in mind, and we'll continue to do  
11 it, Your Honor.

12 And to the extent they think we've made -- we've put a  
13 stop sign at our production now, that's not the case. When  
14 we -- you know, as we prepare for trial -- and this just  
15 happened two weeks ago at a trial that I had -- was we were  
16 preparing with witnesses and we were meeting with witnesses and  
17 they say things that are inconsistent or, you know, that are  
18 potentially exculpatory, we put those in either reports or  
19 emails, and we send those over.

20 So we understand our obligations and understand where  
21 they extend, and we're not making -- as I think Mr. Derusha  
22 made clear, we don't make a distinction between civil and  
23 criminal.

24 THE COURT: Okay. All right. So I'll get this out  
25 today, and then we'll just be waiting for Judge Talwani to set

1 a pretrial conference date for you.

2 MR. CALLAHAN: And could we exclude the time, Your  
3 Honor?

4 THE COURT: Yes, and I'll exclude the time until that  
5 date.

6 Okay. Anything else?

7 MR. FICK: No, Your Honor. Thank you.

8 THE COURT: All right. Thank you. Good to see you.

9 MR. CALLAHAN: Thank you, Your Honor.

10 THE COURT: Bye-bye.

11 (Recording ends.)

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1 CERTIFICATE OF OFFICIAL REPORTER

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3 I, Linda Walsh, Registered Professional Reporter

4 and Certified Realtime Reporter, in and for the United States

5 District Court for the District of Massachusetts, do hereby

6 certify that the foregoing transcript is a true and correct

7 transcript of the audio-recorded proceedings held in

8 the above-entitled matter, to the best of my skill and ability.

9 Dated this 5th day of November, 2023.

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12

13 /s/ Linda Walsh

14 Linda Walsh, RPR, CRR

15 Official Court Reporter

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